

STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

*Rec'd  
5-28-91  
JS*

Department of Health Services v.

Gayle Nobert, RN, License No. E50120

110 Trumbull Street

Meriden, CT 06450

CASE PETITION NO. 900322-10-019

AMENDED FINAL MEMORANDUM OF DECISION \*

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges dated January 3, 1991.

The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut. The Board issued a Notice of Hearing dated January 8, 1991. The hearing was scheduled for February 27, 1991 and continued to March 20, 1991. The Board issued a Notice of Continuance of Formal Hearing dated March 11, 1991. The hearing took place on March 20, 1991 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

\* This Memorandum of Decision represents the identical Memorandum of Decision, as signed on May 2, 1991 with the exception of a correction in the spelling of Gayle Nobert's name.

### FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Gayle Nobert, hereinafter referred to as Respondent, was issued Connecticut Registered Nurse license number E50120 on September 14, 1987.
2. The Respondent was the holder of said license at all times referenced in the Statement of Charges.
3. Pursuant to the General Statutes of Connecticut, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license. (Department Exhibit 1).
4. The Respondent was aware of the time and location of the hearing. Department Exhibit 2 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent. The Respondent was present at the hearing and was represented by counsel.
5. On or before December 28, 1989, the Respondent brought a prescription for the controlled substance Tylox to Pelton Drug Store, Wethersfield, Connecticut, to be filled. (Department Exhibit 3)
6. Said prescription was for a person named John Anastasakis. (Department Exhibit 3)

7. The Respondent did not know John Anastasakis. (Hearing Transcript, March 20, 1991, p.p. 10-11)
8. The Respondent had been given the prescription order by her friend, Agnes Hubeny. (Department Exhibit 3; Hearing Transcript, March 20, 1991, p.9)
9. The Respondent suspected that the Tylox was going to be used by her friend, Agnes Hubeny. (Hearing Transcript, March 20, 1991, p.12)
10. On December 28, 1989, the Respondent picked up the filled prescription for Tylox at Pelton Drug Store. (Department Exhibit 3)
11. The written prescription order itself, had been stolen and altered by person(s) unknown. (Department Exhibit 3)
12. In 1989, the Respondent obtained prescriptions for herself, from Dr. Pellenberg, for controlled substances. (Department exhibit 3; Hearing Transcript, March 20, 1991, p.p. 6-7, 13)
13. On four occasions in 1989, the Respondent gave her filled prescriptions from Dr. Pellenberg to Agnes Hubeny. (Department Exhibit 3; Hearing Transcript, March 20, 1991, p.o. 4-7, 13)

## DISCUSSION AND CONCLUSIONS

PARAGRAPH TWO of the Statement of Charges alleges that "On or about December 28, 1989 the Respondent obtained a controlled substance by means of a stolen and altered prescription." The Respondent admits this charge. (Hearing Transcript March 20, 1991, p. 4-5)

The above referenced conduct is prohibited by the General Statutes of Connecticut Section 20-99(b), as "...conduct which fails to conform to the accepted standards of the nursing profession...."

Based upon the Respondent's admission and Facts 5-11, the Board finds that Paragraph Two has been proven, and concludes the Respondent violated the General Statutes of Connecticut Section 20-99(b), by engaging in "...conduct which fails to conform to the accepted standards of the nursing profession..." Id.

The THIRD PARAGRAPH of the Statement of Charges alleges that "For some months prior to December 28, 1989, Respondent obtained and filled numerous prescriptions for controlled substances in her own name and passed said substances to another individual." The Respondent admitted this charge to the extent that the Respondent obtained and filled four (4) prescriptions for herself, which she passed to another individual. (Hearing Transcript March 20, 1991, pp. 4-5) (The Department agreed that it could not meet its burden of proof beyond four (4) incidents, and stipulated that the word "numerous" could be changed to "four" in an oral amendment of the Statement of Charges.) (Hearing Transcript p. 5)

The above referenced conduct of Respondent is prohibited by the General Statutes of Connecticut Section 20-99(b), as "...conduct which fails to conform to the accepted standards of the nursing profession...."

Based upon the Respondent's admission and Facts 12-13, the Board finds that Paragraph Three has been proven to the extent that Respondent obtained and passed prescription drugs to a third party on four (4) occasions, and concludes that Respondent violated the General Statutes of Connecticut Section 20-99(b), by engaging in "...conduct which fails to conform to the accepted standards of the nursing profession...." Id.

#### ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that:

1. The license of the Respondent be placed on probation for a minimum of one (1) year as follows:
  - A. as to the Second Paragraph (1) year probation;
  - B. as to the Third Paragraph (1) year probation;
  - C. the one (1) year probationary periods referenced in (A) and (B) are to run concurrently for an effective probationary period of one (1) year.
2. If any of the following conditions of probation are not met, the Respondent's license may be immediately revoked.

- A. She shall provide a copy of this Memorandum of Decision to her employer.
- B. Her employer must notify the Board in writing by August 1, 1991, of receipt of a copy of this Memorandum of Decision.
- C. She shall not accept employment as a nurse for a personnel provider service for the period of her probation.
- D. During the year of probation the Respondent must make five (5) presentations to nursing students of five (5) different nursing programs in the State of Connecticut concerning ethics in relationship to the abuse of controlled substances by nurses.
- E. She shall be responsible for the provision of a report from each nursing program director documenting the completion of the presentations cited in (D).
- F. Said reports cited in (E) shall be submitted by June 30, 1992.
- G. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- H. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- I. All correspondence and reports are to be addressed to:

Office of the Board of Examiners for Nursing  
Department of Health Services  
150 Washington Street  
Hartford, CT 06106

- 3. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation and will subject the Respondent to sanctions under the General Statutes of Connecticut Section

19a-17 including, but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to her address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Health Services or the Connecticut Board of Examiners for Nursing).

4. The date of this period of probation shall commence on July 1, 1991.

The Board of Examiners for Nursing hereby informs the Respondent and the Department of Health Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 22nd day of May, 1991.

BOARD OF EXAMINERS FOR NURSING

BY Bette Jean M. Murphy RN